

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

Douglas J. Beseth, M.D.

Case No. 800-2018-040227

**Physician's and Surgeon's
Certificate No. C 30121**

Respondent

DECISION

The attached Stipulated Surrender of License and Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on September 13, 2019.

IT IS SO ORDERED September 6, 2019.

MEDICAL BOARD OF CALIFORNIA

By: 
**Kimberly Kirchmeyer
Executive Director**

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
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7 *Attorneys for Complainant*

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2018-040227

13 DOUGLAS J. BESETH, M.D.
1277 Upland Hills Drive South
14 Upland, California 91786

OAH No. 2019041266

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 Physician's and Surgeon's Certificate
No. C 30121,

16
17 Respondent.

18 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical
22 Board of California (Board). She brought this action solely in her official capacity and is
23 represented in this matter by Xavier Becerra, Attorney General of the State of California, by
24 Rebecca L. Smith, Deputy Attorney General.

25 2. Douglas J. Beseth, M.D. ("Respondent") is representing himself in this proceeding
26 and has chosen not to exercise his right to be represented by counsel.

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3. On or about June 13, 1968, the Board issued Physician's and Surgeon's Certificate No. C 30121 to Respondent. That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-040227 and will expire on January 31, 2021, unless renewed.

JURISDICTION

4. Accusation No. 800-2018-040227 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 25, 2019. Respondent filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2018-040227 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 800-2018-040227. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 800-2018-040227, agrees that cause exists for discipline and hereby surrenders his Physician's and Surgeon's Certificate No. C 30121 for the Board's formal acceptance.

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9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that Portable Document Format (“PDF”) and facsimile copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 30121, issued to Respondent Douglas J. Beseth, M.D., is surrendered and accepted by the Medical Board of California.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a physician and surgeon in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2018-040227 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 800-2018-040227 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED:

10 AUG 19

DOUGLAS J. BESETH, M.D.

Respondent

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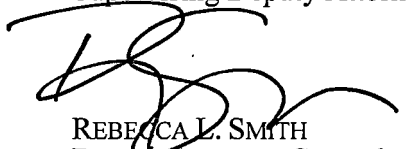
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: 8-15-19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General



REBECCA L. SMITH
Deputy Attorney General
Attorneys for Complainant

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EXHIBIT A

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
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9 **BEFORE THE**
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13 In the Matter of the Accusation Against:

Case No. 800-2018-040227

14 DOUGLAS J. BESETH, M.D.
1277 Upland Hills Drive South
15 Upland, California 91786

A C C U S A T I O N

16 Physician's and Surgeon's Certificate
No. C 30121,

17 Respondent.
18

19
20 Complainant alleges:

21 **PARTIES**

22 1. Kimberly Kirchmeyer ("Complainant") brings this Accusation solely in her official
23 capacity as the Executive Director of the Medical Board of California, Department of Consumer
24 Affairs ("Board").

25 2. On or about June 13, 1968, the Medical Board issued Physician's and Surgeon's
26 Certificate Number C 30121 to Douglas J. Beseth, M.D. ("Respondent"). That license was in full
27 force and effect at all times relevant to the charges brought herein and will expire on January 31,
28 2021, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 2227 of the Code states:

"(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

"(1) Have his or her license revoked upon order of the board.

"(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

"(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

"(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

"(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

"(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1."

5. Section 2234 of the Code, states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

1 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
2 violation of, or conspiring to violate any provision of this chapter.

3 “...”

4 6. Section 2236 of the Code states:

5 “(a) The conviction of any offense substantially related to the qualifications, functions, or
6 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this
7 chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction
8 occurred.

9 “(b) The district attorney, city attorney, or other prosecuting agency shall notify the
10 Division of Medical Quality¹ of the pendency of an action against a licensee charging a felony or
11 misdemeanor immediately upon obtaining information that the defendant is a licensee. The
12 notice shall identify the licensee and describe the crimes charged and the facts alleged. The
13 prosecuting agency shall also notify the clerk of the court in which the action is pending that the
14 defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds
15 a license as a physician and surgeon.

16 “(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours
17 after the conviction, transmit a certified copy of the record of conviction to the board. The
18 division may inquire into the circumstances surrounding the commission of a crime in order to fix
19 the degree of discipline or to determine if the conviction is of an offense substantially related to
20 the qualifications, functions, or duties of a physician and surgeon.

21 “(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to
22 be a conviction within the meaning of this section and Section 2236.1. The record of conviction
23 shall be conclusive evidence of the fact that the conviction occurred.”

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26 ¹ California Business and Professions Code section 2002, as amended and effective January 1,
27 2008, provides that, unless otherwise expressly provided, the term “board” as used in the State Medical
28 Practice Act (Cal. Bus. & Prof. Code, §§§§ 2000, et seq.) means the “Medical Board of California,” and
references to the “Division of Medical Quality” and “Division of Licensing” in the Act or any other
provision of law shall be deemed to refer to the Board.

1 7. Section 2239 of the Code states:

2 “(a) The use or prescribing for or administering to himself or herself, of any controlled
3 substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic
4 beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to
5 any other person or to the public, or to the extent that such use impairs the ability of the licensee
6 to practice medicine safely or more than one misdemeanor or any felony involving the use,
7 consumption, or self-administration of any of the substances referred to in this section, or any
8 combination thereof, constitutes unprofessional conduct. The record of the conviction is
9 conclusive evidence of such unprofessional conduct.

10 “(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is
11 deemed to be a conviction within the meaning of this section. The Division of Medical Quality
12 may order discipline of the licensee in accordance with Section 2227 or the Division of Licensing
13 may order the denial of the license when the time for appeal has elapsed or the judgment of
14 conviction has been affirmed on appeal or when an order granting probation is made suspending
15 imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4
16 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of
17 not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint,
18 information, or indictment.”

19 8. Section 490 of the Code states:

20 “(a) In addition to any other action that a board is permitted to take against a licensee, a
21 board may suspend or revoke a license on the ground that the licensee has been convicted of a
22 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
23 or profession for which the license was issued.

24 “(b) Notwithstanding any other provision of law, a board may exercise any authority to
25 discipline a licensee for conviction of a crime that is independent of the authority granted under
26 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
27 of the business or profession for which the licensee's license was issued.

28 ///

1 “(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
2 conviction following a plea of nolo contendere. Any action that a board is permitted to take
3 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
4 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
5 made suspending the imposition of sentence, irrespective of a subsequent order under the
6 provisions of Section 1203.4 of the Penal Code.

7 “(d) The Legislature hereby finds and declares that the application of this section has been
8 made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th
9 554, and that the holding in that case has placed a significant number of statutes and regulations
10 in question, resulting in potential harm to the consumers of California from licensees who have
11 been convicted of crimes. Therefore, the Legislature finds and declares that this section
12 establishes an independent basis for a board to impose discipline upon a licensee, and that the
13 amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change
14 to, but rather are declaratory of, existing law.”

15 9. Section 493 of the Code states:

16 “Notwithstanding any other provision of law, in a proceeding conducted by a board within
17 the department pursuant to law to deny an application for a license or to suspend or revoke a
18 license or otherwise take disciplinary action against a person who holds a license, upon the
19 ground that the applicant or the licensee has been convicted of a crime substantially related to the
20 qualifications, functions, and duties of the licensee in question, the record of conviction of the
21 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
22 and the board may inquire into the circumstances surrounding the commission of the crime in
23 order to fix the degree of discipline or to determine if the conviction is substantially related to the
24 qualifications, functions, and duties of the licensee in question.

25 “...”

26 10. Code section 4021 states:

27 “‘Controlled substance’ means any substance listed in chapter 2 (commencing with Section
28 11053) of Division 10 of the Health and Safety Code.”

1 11. Code section 4022 provides:

2 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self-use in
3 humans or animals, and includes the following:

4 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without
5 prescription,’ ‘Rx only’ or words of similar import.

6 “(b) Any device that bears the statement: ‘Caution: federal law restricts this device to sale
7 by or on the order of a _____,’ ‘Rx only,’ or words of similar import.

8 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
9 prescription or furnished pursuant to Section 4006.”

10 12. California Code of Regulations, title 16, section 1360, states:

11 “For the purposes of denial, suspension or revocation of a license, certificate or permit
12 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
13 considered to be substantially related to the qualifications, functions or duties of a person holding
14 a license, certificate or permit under the Medical Practice Act if to a substantial degree it
15 evidences present or potential unfitness of a person holding a license, certificate or permit to
16 perform the functions authorized by the license, certificate or permit in a manner consistent with
17 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the
18 following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
19 violation of, or conspiring to violate any provision of the Medical Practice Act.”

20 **FACTUAL SUMMARY**

21 13. On December 20, 2017, in proceedings entitled *The People of the State of California*
22 *v. Douglas J. Beseth*, case number MWV17023990 in the San Bernardino County Superior Court,
23 Respondent, upon his plea of nolo contendere, was convicted of driving a vehicle while having a
24 .08% or higher blood alcohol content, in violation of Vehicle Code section 23152, subdivision
25 (b), a misdemeanor.

26 14. Respondent was placed on summary probation for a period of three years under the
27 following terms and conditions:

28 A. Violate no law;

- 1 B. Not drive a motor vehicle unless properly licensed and insured; and
2 C. Submit to a blood alcohol test upon request of law enforcement officer.

3 15. The circumstances leading to Respondent's conviction are as follows:

4 On July 6, 2017, at approximately 7:28 p.m., Upland Police Officers responded to a
5 report that Respondent had driven his vehicle erratically in his neighborhood, hitting a trash can
6 and curb, before pulling into his driveway and garage. Respondent was detained in front of his
7 home. He admitted to driving the vehicle and showed several objective symptoms of alcohol
8 intoxication, including the strong odor of alcoholic beverage emitted from Respondent's breath
9 and person. He had bloodshot and watery eyes and was unable to successfully perform field
10 sobriety exercises. Respondent stated that he drank an orange juice drink with two shots of vodka
11 at approximately 12:00 p.m. He also stated that he took 2.4 milligrams of Alprazolam² at 12:00
12 p.m.³ Respondent voluntarily submitted to a PAS (Preliminary Alcohol Screening) which
13 revealed a BAC (blood alcohol content) of .178 %. Respondent was placed under arrest and
14 booked at the West Valley Detention Center for driving a vehicle while having a .08% or higher
15 blood alcohol content, in violation of Vehicle Code section 23152, subdivision (b), and driving a
16 vehicle while under the combined influence of alcohol and drugs, in violation of Vehicle Code
17 section 23152, subdivision (g). At the detention center, Respondent provided a blood sample
18 which revealed BAC of 0.198 % and confirmed the presence of Alprazolam in his system.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Conviction of a Crime)**

21 16. By reason of the facts set forth above in paragraphs 13 through 15, Respondent is
22 subject to disciplinary action under section 2234, subdivision (a), section 2236, subdivision (a),
23 and section 490 of the Code and California Code of Regulations, title 16, section 1360, in that he
24 has been convicted of a crime substantially related to the qualifications, function, or duties of a
25 physician and surgeon.

26 ² Alprazolam, a benzodiazepine used to treat anxiety and panic disorders, is a Schedule IV
27 Controlled Substance and a dangerous drug.

28 ³ At the time of his interview with the Board, Respondent indicated that he had taken the
Alprazolam the previous night and that he only takes Alprazolam at night.

1 17. Respondent's acts and/or omissions as set forth in paragraphs 13 through 15 above,
2 whether proven individually, jointly, or in any combination thereof, constitute a conviction of a
3 crime substantially related to the qualifications, function, or duties of a physician and surgeon
4 pursuant to section 2234, subdivision (a), section 2236, subdivision (a), and section 490 of the
5 Code and California Code of Regulations, title 16, section 1360. Therefore, cause for discipline
6 exists.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Use of Alcoholic Beverages and Controlled Substance in a Dangerous Manner)**

9 18. By reason of the facts set forth above in paragraphs 13 through 15, Respondent is
10 subject to disciplinary action under section 2234, subdivision (a) and section 2239 of the Code
11 and California Code of Regulations, title 16, section 1360, in that he used alcoholic beverages and
12 a controlled substance, to the extent, or in such a manner as to be dangerous and injurious to
13 Respondent, or to any other person or to the public.

14 19. Respondent's acts and/or omissions as set forth in paragraphs 13 through 15 above,
15 whether proven individually, jointly, or in any combination thereof, constitute use of alcoholic
16 beverages and a controlled substance, to the extent, or in such a manner as to be dangerous and
17 injurious to Respondent, or to any other person or to the public pursuant to section 2234,
18 subdivision (a) and section 2239 of the Code and California Code of Regulations, title 16, section
19 1360. Therefore, cause for discipline exists.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct)**

22 20. By reason of the facts set forth above in paragraphs 13 through 15, Respondent is
23 subject to disciplinary action under section 2234, subdivision (a) and section 490 of the Code and
24 California Code of Regulations, title 16, section 1360, in that he engaged in conduct which
25 breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a
26 member in good standing of the medical profession, and which demonstrates an unfitness to
27 practice medicine.

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21. Respondent's acts and/or omissions as set forth in paragraphs 13 through 15 above, whether proven individually, jointly, or in any combination thereof, constitutes conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine pursuant to section 2234, subdivision (a) and section 490 of the Code and California Code of Regulations, title 16, section 1360. Therefore, cause for discipline exists.

DISCIPLINARY CONSIDERATIONS

22. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about June 19, 1987, in a prior criminal proceeding entitled *The People of the State of California v. Douglas Joseph Beseth*, case number M143811, in the Los Angeles County Superior Court, Respondent, upon his guilty plea, was convicted of driving a vehicle while having a .10% or higher blood alcohol content, in violation of Vehicle Code section 23152, subdivision (b), of the Vehicle Code, the record of which is incorporated as if fully set forth herein.⁴ Respondent was placed on summary probation for a period of three years under terms and conditions, including a driving restriction for 365 days.

23. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about September 6, 1989, in a prior criminal proceeding entitled *The People of the State of California v. Douglas Joseph Beseth*, case number 88MO8101, in the Los Angeles County Superior Court, Respondent, upon his plea of nolo contendere, was convicted of driving under the influence of alcohol in violation of section 23152, subdivision (a), of the Vehicle Code, the record of which is incorporated as if fully set forth herein. Respondent was placed on summary probation for a period of three years under terms and conditions, including a suspended license for three years.

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⁴ The court noted an alleged prior conviction on June 5, 1986 in *The People of the State of California v. Douglas Joseph Beseth*, case number M267907, in the Los Angeles County Superior Court, for driving under the influence in violation of Vehicle Code section 23152, subdivision (a), of the Vehicle Code.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number C 30121, issued to Douglas J. Beseth, M.D.;
2. Revoking, suspending or denying approval of his authority to supervise physician assistants and advanced practice nurses;
3. If placed on probation, ordering him to pay the Medical Board of California the cost of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED:
March 25, 2019


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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